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Litigation Services

Joann Dyroff

February 24, 2023

Edward Wiegand, et al.

vs.

New York Life Insurance & Annuity Corporation,
et al.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

EDWARD WIEGAND and EUGENIA)	
SPRICH, TRUSTEES OF THE)	
HERBERT C. WIEGAND REVOCABLE)	
TRUST, individually and on)	
behalf of all other similarly)	
situated,)	
)	
Plaintiff,)	No. 4:22 CV 188 RWS
)	
vs.)	
)	
NEW YORK LIFE INSURANCE &)	
ANNUITY CORPORATION, et al.,)	
)	
Defendants.)	

The deposition of JOANN DYROFF, taken before Mary M. Rocco, Certified Court Reporter and Registered Professional Reporter, taken pursuant to the provisions of the Missouri Code of Civil Procedure and the Rules of the Supreme Court thereof pertaining to the taking of depositions for the purpose of discovery, commencing at 12:00 p.m., on February 24th, 2023, at 165 North Meramec, Suite 110, St. Louis, Missouri 63105.

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22 On behalf of Defendants.

23 *****

1 (Witness sworn.)

2 WHEREUPON:

3 JOANN DYROFF, called as a witness
4 herein, having been first duly sworn, was examined
5 and testified via videoconference as follows:

6 ---

7 EXAMINATION

8 BY MR. BRODZIK:

9 Q. Good afternoon. My name is James
10 Brodzik. I represent New York Life Insurance and
11 Annuity Corporation and New York Life Insurance
12 Company.

13 A few ground rules. I almost feel
14 like I don't even have to state these to you. But
15 no shaking heads. "Yes" or "No" answers. Allow
16 me to finish my questions. Whenever you need a
17 break, let me know. I just ask that you finish
18 any pending questions or answer any pending
19 questions before we do so. Can you state your
20 name for the record, please?

21 **A. Joann N. Dyroff.**

22 Q. And your date of birth?

23 **A. 6-30, 1945.**

24 Q. And your address?

25 **A. 15 Woodoaks Trail, St. Louis,**

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1 **Missouri 63124.**

2 Q. How long have you lived there?

3 **A. 39 years.**

4 Q. You haven't taken any medication
5 prior to the deposition today that would impact
6 your ability to testify, have you?

7 **A. No.**

8 Q. We're here today about a lawsuit
9 filed by Edward Wiegand and Eugenia Sprich,
10 Trustees of the Herbert C. Wiegand Revocable Trust
11 versus New York Life Insurance and Annuity
12 Corporation and New York Life Insurance Company.

13 MR. BRODZIK: I'm going to mark this
14 as Exhibit A. It's a copy of the petition.

15 (Whereupon, Exhibit A is marked for
16 identification.)

17 BY MR. BRODZIK:

18 Q. Take a chance to review it. Have
19 you seen that document before?

20 **A. Yes.**

21 Q. Okay. What is your understanding of
22 the factual allegations of the claims that have
23 been brought against New York Life and the New
24 York Life entities in this suit?

25 **A. My understanding is that the**

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1 allegation is that New York Life failed to give
2 appropriate notice to the plaintiffs of the annual
3 notice and the diminution value and the expiration
4 on a timely basis that caused damage. I read the
5 petitions from months ago, so I haven't reviewed
6 them recently.

7 Q. You are a licensed attorney;
8 correct?

9 A. Yes.

10 Q. What type of practice do you do?

11 A. It's a mix. A lot of estate
12 planning, probate and trust administration, some
13 tax, some real estate. I do a lot of qualified
14 domestic relations orders for the divorce arm of
15 our firm. We don't do divorce practice. I do a
16 fair amount of nonprofit work.

17 Q. Do you consider yourself to be a
18 specialist in any particular area, or do you have
19 any specialties?

20 A. I don't think of it as a specialty.
21 I would just say that I spend more of my time
22 doing some things more than others.

23 Q. What do you spend more of your time
24 doing than others?

25 A. Probably estate planning and probate

Page 7

1 and trust administration.

2 Q. Do you do any litigation?

3 A. No.

4 Q. Have you ever done any litigation?

5 A. No.

6 Q. Where did you go to undergrad?

7 A. University of Missouri.

8 Q. What did you study?

9 A. I have studied history.

10 Q. So did I. What year did you
11 graduate?

12 A. I graduated in 1967.

13 Q. Did you get -- outside from a JD,
14 did you get any higher-education degree?

15 A. I have a masters in history.

16 Q. Where did you get that?

17 A. Mizzou.

18 Q. Where did you go to law school?

19 A. I started at University of Missouri
20 and then transferred to my last two years at
21 University of Minnesota.

22 Q. Golden Gophers?

23 A. You got it.

24 Q. What year did you graduate?

25 A. I graduated in 1973.

Page 8

1 Q. Are you a member of any professional
2 organization?

3 A. I'm a member of the Bar Association
4 of Metropolitan St. Louis, some other assorted
5 ones like that.

6 Q. Sure. Have you ever been sued for
7 malpractice?

8 A. Yes.

9 Q. How many times?

10 A. Once.

11 Q. Do you recall when that occurred?

12 A. That was, I think, 1993.

13 Q. Could you tell me the allegations
14 that were -- or describe the allegations that were
15 brought against you in that suit?

16 A. I was sued as a partner in a law
17 firm. That law firm had a partner who allegedly
18 caused damage in a divorce case by not following
19 through with some kind of matter. I don't
20 remember all the details, but I was sued because I
21 was a partner in that firm.

22 Q. What was the outcome of that suit?

23 A. There was a judgment and a remitter.

24 The judge reduced the amount of the judgment, and
25 I believe that it was paid by insurance.

Page 9

1 Q. Have you ever had any action taken
2 against your law license?

3 A. No.

4 Q. Have you written for any
5 publications?

6 A. I write for a publication that is a
7 specific publication having to do with general
8 counsel for a client.

9 Q. Okay.

10 A. And I may have written an article to
11 a bar journal a time or two.

12 Q. So you served as general counsel for
13 a corporation?

14 A. Yes.

15 Q. Could you tell me the name of that
16 corporation?

17 A. I assume I can. It's Missouri
18 Housing Authorities Property and Casualty.

19 Q. Have you ever done any expert work?

20 A. No.

21 Q. After you graduated law school, can
22 you tell me where you first worked?

23 A. I worked at a firm, Maslon, Kaplan,
24 Edelman, Borman, Brand and McNalty in Minneapolis.

25 Q. How long did you work there from, or

3 (Pages 6 to 9)

Page 10

1 the --
 2 **A. I worked about five years there.**
 3 Q. So after you graduated law School,
 4 you took the Minnesota Bar, I'm assuming?
 5 **A. (Nodding.)**
 6 Q. At some point, you moved back to
 7 Missouri?
 8 **A. Yes.**
 9 Q. Okay. Did you have to take the
 10 Missouri Bar, or did you get some sort of
 11 reciprocity from years of practice?
 12 **A. It was a little more complicated. I**
 13 **moved to Texas in between. I had to take the**
 14 **Texas Bar. Then when I moved to Missouri, I got**
 15 **reciprocity from Texas.**
 16 Q. When did you move back to the
 17 beautiful State of Missouri?
 18 **A. 1981.**
 19 Q. Where did you work when you moved
 20 back?
 21 **A. I initially did not work for a**
 22 **period of time because I had a child, and then I**
 23 **started back with the firm of -- I don't remember**
 24 **what it was called then. Love, Lacks and Paule.**
 25 Q. How long did you cease working as an

Page 11

1 attorney when you moved back to St. Louis?
 2 **A. About eight or nine months.**
 3 Q. Did you keep your license active
 4 during that time?
 5 **A. Yes.**
 6 Q. How long did you work with that
 7 firm?
 8 **A. Until it dissolved in 1993, the end**
 9 **of 1993, and a new firm was formed. So until the**
 10 **end of 1993.**
 11 Q. Did that malpractice suit have any
 12 impact or have any bearing on the closure of that
 13 prior firm?
 14 **A. Yes.**
 15 Q. Following the closure of that firm,
 16 where did you go?
 17 **A. Paule, Camazine and Blumenthal.**
 18 Q. So you have been here since 1990 --
 19 **A. 1994.**
 20 Q. What is your current title for --
 21 can I call it PCB?
 22 **A. (Nodding.)**
 23 Q. What is your current title for PCB?
 24 **A. Principal partner. We call**
 25 **ourselves partners, but we are principals.**

Page 12

1 Q. Did you come into the firm as a
 2 principal?
 3 **A. Yes.**
 4 Q. Do you have much experience, or do
 5 you have any experience in advising clients on
 6 life insurance policies?
 7 **A. I mean, not much.**
 8 Q. And you worked in a lot of trust and
 9 estate work, as you said?
 10 **A. Yes.**
 11 Q. Is it common that a life insurance
 12 policy would be included in a trust or estate
 13 plan?
 14 **A. Somewhat. Not always. Less now**
 15 **because of changes in the estate tax law.**
 16 Q. Have you had clients in the past
 17 reach out to you for advice on life insurance
 18 policies?
 19 **A. Yes.**
 20 Q. And when that happens, do you
 21 typically answer their questions? Or do you find
 22 them a third party attorney or someone else in
 23 your office to better help them?
 24 **A. I typically discuss it with somebody**
 25 **else appropriate in our office.**

Page 13

1 Q. The deposition that we're in today,
 2 how long did you prepare for this deposition?
 3 **A. I may have spent 45 minutes or an**
 4 **hour just generally reviewing the files because**
 5 **it's been so long.**
 6 Q. When you state "the files," what are
 7 you encompassing in that statement?
 8 **A. The ones that were provided to**
 9 **review.**
 10 Q. You did that for about 45 minutes?
 11 **A. Yes.**
 12 Q. Did you discuss this deposition with
 13 anybody outside of your attorney?
 14 **A. No.**
 15 Q. Have you ever discussed this case
 16 with Edward Wiegand?
 17 **A. I believe that would fall under**
 18 **confidentiality rules.**
 19 Q. Is Edward Wiegand your client?
 20 **A. He was through the duration of this**
 21 **time, the Trust administration.**
 22 Q. How long did the Trust
 23 administration occur?
 24 **A. I can't remember exactly the year.**
 25 **When Mr. Wiegand died, the senior officer, it**

4 (Pages 10 to 13)

1 **probably ended about the time we finally finished**
 2 **up the estate tax return issues, major issues, you**
 3 **know. 2006, 2007, something like that.**

4 Q. So your representation of Edward
 5 Wiegand ceased in 2007?

6 **A. On this matter, yes.**

7 Q. Right. So in regards to this
 8 current lawsuit that's been filed in 2022, have
 9 you spoken with Edward Wiegand about the suit?

10 MR. JACOBSON: I'm going to object
 11 on the grounds it does call for attorney-client
 12 communication. If you look at the file, there is
 13 no termination of representation. And you have to
 14 ask the client whether they believe they were
 15 still being represented by Ms. Dyroff, which I
 16 think they do believe that.

17 BY MR. BRODZIK:

18 Q. Do you believe you are still
 19 representing Mr. Wiegand?

20 MR. SLABY: I think this calls for a
 21 legal conclusion. Ms. Dyroff wants to be very
 22 careful regarding any statements that her client
 23 made or has made related to this matter. And if
 24 there is some agreement between the parties
 25 regarding that this does not fall within

1 Wiegand and Eugenia Sprich as Trustees of the
 2 Trust.

3 BY MR. BRODZIK:

4 Q. Did you represent the trust as well?

5 **A. I think the general position is I**
 6 **represent the trustees.**

7 Q. Was there -- did the Trust have an
 8 attorney or some attorney representing the
 9 interest of the Trust?

10 **A. It would be my understanding that by**
 11 **representing the Trustees of the Trust and their**
 12 **duties as Trustees, that that is, in a sense,**
 13 **representation of the Trust. But again, that**
 14 **calls for a legal conclusion that I am not**
 15 **prepared to draw right now.**

16 Q. Were you familiar with Dr. Wiegand
 17 prior to representing Edward and Eugenia as
 18 Trustees of this Trust?

19 **A. No.**

20 Q. Okay. When did Edward and Eugenia
 21 first become clients of PCB?

22 **A. I don't recall the date the client,**
 23 **the Trust, the administration was opened.**

24 Q. Do you recall a general time period
 25 in which Edward and Eugenia came to PCB asking for

1 privilege, then that's one thing, but she doesn't
 2 want to divulge any confidential information that
 3 may be required by the rules of professional
 4 responsibility.

5 Q. Have you spoken with Eugenia Sprich
 6 in regards to this deposition?

7 **A. I believe that the same issues of**
 8 **confidentiality would apply here.**

9 Q. So you have, but you believe that
 10 the conversations were confidential?

11 **A. I believe that whether or not I**
 12 **conversed with them would be a confidential issue.**

13 Q. Did you ever personally represent
 14 Dr. Herbert Wiegand?

15 **A. No.**

16 Q. Was Dr. Wiegand deceased when your
 17 representation of, I guess -- okay, well, here's a
 18 question -- when this case first came in to your
 19 office, who did you represent in the underlying
 20 Trust matter?

21 THE WITNESS: Can I answer that it's
 22 confidential?

23 MR. SLABY: Who we represented, I
 24 don't think is confidential.

25 THE WITNESS: I represented Ed

1 representation?

2 **A. My thought is 2002, 2003. I don't**
 3 **recall the date. I knew it was after his death.**

4 Q. Did you know Edward socially or know
 5 of him prior to him coming in to PCB for
 6 representation?

7 **A. No.**

8 Q. Did you know Eugenia prior to?

9 **A. No.**

10 MR. BRODZIK: I'm going to -- I'm
 11 going to mark this as Exhibit B. It's the
 12 subpoena that we issued to you.

13 (Whereupon, Exhibit B is marked for
 14 identification.)

15 BY MR. BRODZIK:

16 Q. Have you seen that document before?

17 **A. Yes.**

18 Q. And there is a rider attached to the
 19 subpoena, asking you to produce a number of
 20 documents in regards to your firm's handling of
 21 this Trust or these individuals.

22 **A. Yes.**

23 Q. Have you read the rider in the past?

24 **A. Yes.**

25 Q. And you did produce a number of

Page 18

1 documents, both electronically, and you also
2 allowed the firm of Jacobson and I to come in and
3 view your file in person?

4 **A. Yes.**

5 Q. And there were a number of documents
6 that you copied for us out of the file and
7 produced supplementary to us?

8 **A. Yes.**

9 **MR. SLABY: Just for the record,**
10 **there was a privilege log provided that --**

11 MR. BRODZIK: And I'm going to mark
12 this as Exhibit C.

13 (Whereupon, Exhibit C is marked for
14 identification.)

15 BY MR. BRODZIK:

16 Q. This was a privilege log that was
17 provided to us in conjunction with us getting an
18 original production and then coming in the office
19 to review the file?

20 **A. (Nodding.)**

21 Q. Okay. Based on the privilege log
22 that you have issued, is it your understanding
23 that none of the documents that you have produced
24 to us or that you have copied and then given to us
25 you are claiming privilege to?

Page 20

1 **about my involvement with this policy are**
2 **privileged. And this is starting to touch on**
3 **that, so I can't go any further.**

4 MR. BRODZIK: Can you certify that
5 question, please?

6 (Whereupon, the pending question is
7 certified at the request of Mr. Brodzik.)

8 BY MR. BRODZIK:

9 Q. Did you assist in procuring this
10 policy?

11 **A. No.**

12 Q. Do you know who procured the policy?

13 **A. There was -- I believe it was an**
14 **insurance broker that the Wiegands worked with. I**
15 **can't recall the name of the company. And I think**
16 **it's defunct. I'm fairly sure it's defunct,**
17 **because I understood that the broker had died**
18 **somewhere along the line.**

19 Q. Understood. Are you familiar with
20 life accumulator life insurance policies?

21 **A. Not enough to talk about them.**

22 Q. So you don't know the difference
23 between -- or you can't describe the difference
24 between a life accumulator policy and a standard
25 term life insurance policy?

Page 19

1 **A. Yes.**

2 Q. So the background of this suit, or
3 the allegations in the pending petition, all
4 essentially resolve around a life insurance policy
5 that was taken out by Dr. Wiegand on his then
6 wife, Jean Cameron Wiegand's life. Are you
7 familiar with that policy?

8 **A. Somewhat.**

9 Q. For the record, it is called a
10 Universal Life Accumulator Policy, Number
11 62791665. Have you ever read this policy?

12 **A. I have read parts of it.**

13 Q. What parts of the policy do you
14 recall having read?

15 **A. Primarily, the first several pages**
16 **of the policy.**

17 Q. Is there a reason why you would read
18 the first several pages of the policy and not the
19 entirety of it?

20 **A. As I recall, the policy was -- it's**
21 **a very substantial number of pages. It's not a**
22 **short document, and you know --**

23 Q. So you didn't feel like it was
24 necessary to read the entirety of it, or --

25 **A. My conversations with the clients**

Page 21

1 **A. I can't explain the difference. I**
2 **know that there is a difference between a term**
3 **policy and most other kinds of whole life or term**
4 **life or accumulative policies.**

5 Q. Do you recall what the life benefit
6 on Ms. Jean Wiegand was on this particular policy?

7 **A. Not precisely.**

8 Q. Do you recall what the initial
9 up-front premium was on this policy?

10 **A. I can't accurately recall. I have a**
11 **vague impression.**

12 Q. What is your vague impression?

13 **A. About \$700,000.**

14 Q. Are you aware that this particular
15 life insurance policy, this accumulator policy,
16 had a cash value?

17 **A. Yes.**

18 Q. Okay. Are you aware that over time
19 the cash value of a policy or this particular
20 policy would diminish without the supplementation
21 of yearly premium?

22 **A. That, once again, gets into a matter**
23 **of discussion with the clients. And --**

24 Q. Well, I'm asking for your personal
25 understanding of the policy, nothing you have

6 (Pages 18 to 21)

1 spoken with the clients about.

2 MR. JACOBSON: I'm going to object
3 to the form of the question. Since we're talking
4 about a period of time that spans over 20 years or
5 so, I think we need to have the understanding of
6 what point in time. Otherwise, we have --

7 BY MR. BRODZIK:

8 Q. Okay. In 2003, did you understand
9 that term about the policy?

10 **A. Understand what term about the**
11 **policy?**

12 Q. That the policy had a cash value
13 that would dissipate over time unless additional
14 premium was added to the policy?

15 **A. No.**

16 Q. Have you ever spoken with Jean
17 Cameron Wiegand?

18 **A. No.**

19 Q. And you didn't represent Jean
20 Cameron Wiegand?

21 **A. No.**

22 Q. Have you ever spoken with Jean
23 Cameron Wiegand's children, outside of the
24 children of Herbert Wiegand, her own children that
25 were outside of that marriage?

1 **A. No.**

2 Q. Do you know who prepared that
3 document?

4 **A. No.**

5 Q. Do you have -- this is the First
6 Amended and Restated Trust. If you look at -- my
7 office, in Bates marking these documents, listed
8 them as "Dryoff" and not Dyroff, which I am just
9 noticing. But if you look at 153, it is the
10 Amendment to and the Restatement of the Herbert C.
11 Wiegand Revocable Trust. That original amendment,
12 you did not prepare that?

13 **A. I did not.**

14 Q. Do you know who did?

15 **A. It says McCarter and Greenley, LLC.**

16 Q. Do you know who McCarter and
17 Greenley, LLC, is?

18 **A. No. Another law firm.**

19 Q. Do you know the law firm?

20 **A. It's a law firm.**

21 Q. Do you know if they are still in
22 practice?

23 **A. I don't know.**

24 Q. Do you know if -- well, strike that.

25 Let me move on there. Do you have a copy of the

1 **A. No.**

2 MR. BRODZIK: I'm going to mark this
3 as Exhibit D.

4 (Whereupon, Exhibit D is marked for
5 identification.)

6 BY MR. BRODZIK:

7 Q. This is a document that was included
8 in the legal file that Mr. Jacobson and I had an
9 opportunity to kind of review. In fact, all of
10 these documents were -- I'm going to hand it to
11 you. Have you seen that document before? Or do
12 you know what that document is?

13 MR. JACOBSON: When you say "legal
14 file," are you talking about the documents she
15 produced in her copy here?

16 MR. BRODZIK: Yes.

17 MR. JACOBSON: Okay.

18 THE WITNESS: Yes, I have seen this
19 before.

20 BY MR. BRODZIK:

21 Q. Can you read for me what the
22 document is titled?

23 **A. The First Amendment to the Amended**
24 **and Restated Herbert C. Wiegand Revocable Trust.**

25 Q. Did you help prepare that document?

1 entirety of the Trust, the original Trust, prior
2 to the amendments? Are you aware?

3 **A. I don't know.**

4 Q. And it's your -- okay. When you
5 were paid legal fees in your representation, were
6 you paid directly from the children, or were you
7 paid from the proceeds of the Trust?

8 **A. I believe it would have been the**
9 **Trust.**

10 Q. So you were paid directly out of the
11 Trust?

12 **A. Yes.**

13 MR. BRODZIK: I'm going to mark the
14 next page as Exhibit E, or number of pages. This
15 was also taken from the file that Mr. Jacobson and
16 I had an opportunity to come and review, Dyroff
17 199.

18 (Whereupon, Exhibit E is marked for
19 identification.)

20 BY MR. BRODZIK:

21 Q. Can you tell me who prepared this
22 memorandum?

23 **A. I'm trying to remember who that**
24 **would have been.**

25 Q. And if you don't recall --

1 **A. I'm sorry, I do not.**

2 Q. The date of this memorandum is
3 February 4, 2002. Do you believe that you
4 represented the Wiegands by February 4, 2002, or
5 do you believe that this may have been a
6 memorandum from their prior counsel?

7 **A. It may have been from a prior**
8 **counsel. I'm sorry, I do not remember when he**
9 **died, and I didn't represent him until after. And**
10 **his name is not familiar.**

11 Q. If you look at Page 200, it's a
12 Policy Delivery Receipt on Jean Wiegand, signed by
13 the policy owners, the policy owner, the Herbert
14 Wiegand, LLC, signed by the agent.

15 Do you recall at a certain point
16 needing to change the policy owner from the LLC to
17 some other entity?

18 **A. Yes.**

19 Q. Do you recall what entity that you
20 needed to change, or that you changed the policy
21 to?

22 **A. It was changed to the Trust.**

23 Q. Do you recall when that occurred?

24 **A. Sometime after his death.**

25 Q. And if you look at Page 201, it

1 firm did not have a copy of the insurance policy,
2 was it?

3 MR. JACOBSON: I'm going to object
4 to the form of the question.

5 THE WITNESS: I'm a little confused.
6 BY MR. BRODZIK:

7 Q. Sure. If you look on after 201,
8 202, through 228, can you describe for me what
9 those documents are?

10 **A. It looks like they are provisions as**
11 **part of the policy.**

12 Q. Have you seen this document before?

13 **A. I believe so. It's been a long**
14 **time.**

15 Q. Is it your contention or belief that
16 your firm, or you, did not have a copy of the life
17 insurance policy?

18 **A. No.**

19 MR. BRODZIK: The next document that
20 I am going to provide was also -- what was that
21 last one? I'm going to mark this as Exhibit F.
22 This was also taken from the file that we
23 reviewed.

24 (Whereupon, Exhibit F is marked for
25 identification.)

1 lists the owner of the Trust as Herbert Wiegand,
2 and the address of the Trust as 9 Huntleigh Woods,
3 St. Louis, Missouri 63131. Are you familiar with
4 the 9 Huntleigh Woods address?

5 **A. I believe that was their home.**

6 Q. Do you know if Jean Wiegand lived at
7 the 9 Huntleigh Woods address?

8 **A. I do not know that.**

9 Q. In your assistance with these
10 individuals on the, I guess, maintenance of the
11 Trust, for lack of a better word, did you ever
12 sell the -- or liquidate the 9 Huntleigh Woods
13 property?

14 **A. His personal residence -- if that**
15 **was his personal residence, and I can't say that**
16 **for certain at this point, because I don't recall**
17 **what was sold as part of the Trust administration.**

18 Q. And you believe that that 9
19 Huntleigh Woods house was sold as part of the
20 administration?

21 **A. That was his address, yes. That was**
22 **his residence.**

23 Q. And with this document being
24 included in the file with the copy of the original
25 policy receipt, it is not your belief that your

1 BY MR. BRODZIK:

2 Q. Could you tell me who that is from
3 and to whom it is sent?

4 **A. It's from MaryLee Behlmann.**

5 Q. Do you know who that is?

6 **A. I believe that this is someone who**
7 **was like an assistant in the office of Vance**
8 **Financial Group, which I believe was the group**
9 **that helped arrange for the policy.**

10 Q. Is that the group that you were
11 discussing earlier that has since closed and the
12 principal passed away?

13 **A. That's my understanding.**

14 Q. The fax was sent to Charles
15 McCarter. Do you know who Charles McCarter is?

16 **A. He's an attorney with McCarter and**
17 **Greenley.**

18 Q. Is it your understanding that
19 McCarter and Greenley represented the Trust or the
20 children prior to your representation of the
21 children of the Trust?

22 **A. I did not recall that. That may be**
23 **the case.**

24 Q. If you look at the document itself,
25 it is Dyroff 67 to 74. Have you ever seen this

<p style="text-align: right;">Page 30</p> <p>1 document before?</p> <p>2 A. I cannot -- I have no recollection.</p> <p>3 Q. Of ever seeing this?</p> <p>4 A. That doesn't mean I didn't see it.</p> <p>5 It just means I didn't see it -- it's just been so</p> <p>6 long.</p> <p>7 Q. Right. But you are not -- you have</p> <p>8 no allegation that this document was not contained</p> <p>9 in your legal file, do you?</p> <p>10 A. No.</p> <p>11 Q. Okay. On Page 67, it states that</p> <p>12 the cash value of the policy at the time this</p> <p>13 document was prepared on May 7, 2002, was</p> <p>14 \$778,636.04. What is your understanding of what</p> <p>15 that figure means?</p> <p>16 A. A description of the cash value.</p> <p>17 Q. And below that, the net amount at</p> <p>18 risk, \$618,646.40. Can you describe for me what</p> <p>19 the net amount at risk means?</p> <p>20 A. No.</p> <p>21 Q. The surrender cost basis of</p> <p>22 \$750,000, do you -- can you describe for me what</p> <p>23 the surrender cost basis means?</p> <p>24 A. My understanding would normally be</p> <p>25 that that is the amount that you would receive to</p>	<p style="text-align: right;">Page 32</p> <p>1 Q. Have you represented clients who had</p> <p>2 taken out these types of life accumulator policies</p> <p>3 in the past?</p> <p>4 A. In 2002, had I represented people in</p> <p>5 the past who had done this?</p> <p>6 Q. Yes.</p> <p>7 A. No.</p> <p>8 Q. How about in 2005, had you</p> <p>9 represented people that had taken out policies</p> <p>10 like this in the past?</p> <p>11 A. It's a little hard to remember. I</p> <p>12 can't give you an -- I cannot answer that, because</p> <p>13 I can't recall exactly.</p> <p>14 Q. In 2022, outside of this particular</p> <p>15 policy, have you represented clients that had</p> <p>16 taken out life accumulator policies like this in</p> <p>17 the past?</p> <p>18 A. I'm having trouble with the life</p> <p>19 accumulator policy concept, the term, because</p> <p>20 there are many different kinds of life insurance</p> <p>21 policies. So I can't say precisely that I</p> <p>22 represented somebody that had exactly this kind of</p> <p>23 policy.</p> <p>24 Q. Had you represented individuals as</p> <p>25 of today's date that took out life insurance</p>
<p style="text-align: right;">Page 31</p> <p>1 surrender the policy.</p> <p>2 Q. On the bottom part of the page, just</p> <p>3 above where it says, 7702 Indicator GL, it shows a</p> <p>4 Guideline Annual Premium of \$168,477.95. Are you</p> <p>5 able to provide for me your understanding of what</p> <p>6 that Annual Guideline Premium means?</p> <p>7 A. No.</p> <p>8 Q. If you look at Page 73, there is a</p> <p>9 yearly breakdown of the insurance. Essentially,</p> <p>10 on the far left, the Premium Payment Mode shows an</p> <p>11 annual of zero, including no new premium. Do you</p> <p>12 see under "Guaranteed Charges" that the cash value</p> <p>13 of the policy depreciates over a 10-year period of</p> <p>14 time?</p> <p>15 A. Yes, I see that.</p> <p>16 Q. You had not -- or correct me if I'm</p> <p>17 wrong, but your prior testimony is you have dealt</p> <p>18 with these types of policies in the past?</p> <p>19 MR. SLABY: Object to form.</p> <p>20 BY MR. BRODZIK:</p> <p>21 Q. Had you dealt with these types of</p> <p>22 policies in the past?</p> <p>23 MR. SLABY: Object to form. What</p> <p>24 does deal with the policy mean? I'm sorry.</p> <p>25 BY MR. BRODZIK:</p>	<p style="text-align: right;">Page 33</p> <p>1 policies that had a death benefit and a</p> <p>2 diminishing cash value but for the inclusion of an</p> <p>3 additional premium?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And you've provided legal</p> <p>6 guidance in regards to the handling and</p> <p>7 maintenance of these types of policies?</p> <p>8 A. On a very limited basis.</p> <p>9 Q. Okay. And what basis would that be?</p> <p>10 A. To consult with their insurance</p> <p>11 agent primarily.</p> <p>12 Q. Do you recall if you ever provided</p> <p>13 this accumulative life insurance illustration</p> <p>14 document to Edward or Eugenia?</p> <p>15 A. I believe that that calls for</p> <p>16 confidentiality issues in terms of my discussions</p> <p>17 with them.</p> <p>18 MR. BRODZIK: I'll certify that</p> <p>19 question.</p> <p>20 (Whereupon, the pending question is</p> <p>21 certified at the request of Mr. Brodzik.)</p> <p>22 BY MR. BRODZIK:</p> <p>23 Q. In your history of dealing with</p> <p>24 accumulator policies with diminishing cash values,</p> <p>25 has it been your recommendation in the past to</p>

<p style="text-align: right;">Page 34</p> <p>1 cash out policies prior to deaths occurring?</p> <p>2 MR. SLABY: Object to form.</p> <p>3 MR. JACOBSON: I've got a lot of</p> <p>4 problems with that question.</p> <p>5 BY MR. BRODZIK:</p> <p>6 Q. Well, I'm not asking for your</p> <p>7 particular guidance to any one individual client.</p> <p>8 I'm asking you if in your practice over the past</p> <p>9 40 years in dealing with policies that have</p> <p>10 diminishing cash values, if you have ever</p> <p>11 recommended to clients to exercise their cash-out</p> <p>12 option and take the cash?</p> <p>13 A. I may have from time to time just</p> <p>14 discussed options under policies with individuals.</p> <p>15 Q. Is it your understanding, as an</p> <p>16 attorney and who gives advice on taking cash</p> <p>17 value, or taking the cash value of a policy and</p> <p>18 cashing it in, in your opinion, when should a cash</p> <p>19 value be taken, and when should a client wait and</p> <p>20 take their chances on the death benefit?</p> <p>21 MR. SLABY: Object to form.</p> <p>22 MR. JACOBSON: Yes, it calls for</p> <p>23 speculation. That is unrelated to this case. I</p> <p>24 think you are kind of looking for an expert</p> <p>25 opinion in an area in which she is claiming she</p>	<p style="text-align: right;">Page 36</p> <p>1 Greenley terminate their representation.</p> <p>2 Do you recall if Edward and Eugenia</p> <p>3 had spoken with you about taking over their</p> <p>4 representation prior to sending this letter?</p> <p>5 A. I just don't recall.</p> <p>6 Q. You are CC'd on this letter.</p> <p>7 A. Yes.</p> <p>8 Q. Did you prepare this letter on their</p> <p>9 behalf?</p> <p>10 A. I don't know.</p> <p>11 Q. The letter --</p> <p>12 A. Excuse me, no.</p> <p>13 Q. The letter states, "Please have our</p> <p>14 complete file on or before November 7th, 2002."</p> <p>15 Do you recall if McCarter and Greenley sent you</p> <p>16 their complete file?</p> <p>17 A. I don't know.</p> <p>18 Q. However, some of the exhibits that</p> <p>19 we have gone through have McCarter and Greenley</p> <p>20 faxes that they have received, so it would be safe</p> <p>21 to assume that you received at least some portion</p> <p>22 of their file; correct?</p> <p>23 A. It would be safe to assume it, yes.</p> <p>24 Q. You don't recall when at least that</p> <p>25 partial file was turned over to you?</p>
<p style="text-align: right;">Page 35</p> <p>1 can't proceed.</p> <p>2 BY MR. BRODZIK:</p> <p>3 Q. So you have no opinion on when a</p> <p>4 cash value should be exercised or when a client</p> <p>5 should wait for a death benefit?</p> <p>6 A. If I'm dealing with a client on that</p> <p>7 question, as I said, I would refer them back to</p> <p>8 their insurance agent or to someone in our office</p> <p>9 to help review.</p> <p>10 Q. Do you recall ever directing Edward</p> <p>11 or Eugenia to speak with their insurance agent</p> <p>12 about this policy?</p> <p>13 A. I believe that is covered by</p> <p>14 confidentiality.</p> <p>15 MR. BRODZIK: I would like to</p> <p>16 certify that question as well.</p> <p>17 (Whereupon, the pending question is</p> <p>18 certified at the request of Mr. Brodzik.)</p> <p>19 (Whereupon, Exhibit G is marked for</p> <p>20 identification.)</p> <p>21 BY MR. BRODZIK:</p> <p>22 Q. This is a letter, dated October 23,</p> <p>23 2002, to McCarter and Greenley, signed by Edward</p> <p>24 and Eugenia Sprich, apparently requesting that</p> <p>25 their representation be -- or McCarter and</p>	<p style="text-align: right;">Page 37</p> <p>1 A. No.</p> <p>2 MR. BRODZIK: The next one I'm going</p> <p>3 to mark as H.</p> <p>4 (Whereupon, Exhibit H is marked for</p> <p>5 identification.)</p> <p>6 BY MR. BRODZIK:</p> <p>7 Q. That appears to be another document</p> <p>8 from McCarter and Greenley, based off of the "To"</p> <p>9 and "From." Would you agree?</p> <p>10 A. Yes, it appears to be that.</p> <p>11 Q. Can you tell me the date of --</p> <p>12 A. April 24, 2003.</p> <p>13 MR. SLABY: Let him finish his</p> <p>14 question before you answer.</p> <p>15 THE WITNESS: I'm sorry.</p> <p>16 BY MR. BRODZIK:</p> <p>17 Q. -- the date on the letter? Do you</p> <p>18 have any understanding of why McCarter would still</p> <p>19 be performing work on behalf of the Wiegands,</p> <p>20 what, some six or seven months after sending the</p> <p>21 letter asking that PCB take over the handling of</p> <p>22 the Trust?</p> <p>23 A. No, I have no recollection.</p> <p>24 Q. Okay. Do you believe that by April</p> <p>25 23, 2003, that PCB was representing Edward and</p>

1 Eugenia?

2 **A. I don't recall the dates of when we**
3 **started to represent.**

4 Q. That letter discusses or states that
5 the policy was issued with errors. Are you aware
6 of any errors in the policy when it was issued?

7 **A. I don't recall.**

8 Q. Okay.

9 MR. BRODZIK: The next exhibit.
10 (Whereupon, Exhibit I is marked for
11 identification.)

12 BY MR. BRODZIK:

13 Q. This is a letter from Thomas
14 Blumenthal, written to Barbara Blee Maille, dated
15 June 17th, 2003, in regards to a potential
16 settlement with a James Wiegand. Can you tell me
17 who Barbara Blee Maille is?

18 **A. Barbara Blee Maille, she's an**
19 **attorney.**

20 Q. Did she represent James Wiegand?

21 **A. That's my recollection.**

22 Q. Who is Thomas Blumenthal?

23 **A. My partner.**

24 Q. Did Thomas Blumenthal ever perform
25 work on behalf of the Wiegands or the Trust?

1 **A. Yes.**

2 Q. Can you tell me what the extent of
3 his work on this file was?

4 **A. There was potential litigation by**
5 **James, one of his sons, and he was involved in**
6 **that because he is a litigator.**

7 Q. Can you tell me if you recall what
8 the potential litigation stemmed from between
9 James Wiegand and --

10 **A. It is a little vague, but there was**
11 **-- I think it was primarily over tangible personal**
12 **property and a large gun collection.**

13 Q. Do you recall what happened to the
14 gun collection?

15 **A. No.**

16 Q. Do you recall how many guns were in
17 the collection?

18 **A. No.**

19 Q. Do you recall if any litigation
20 ended up being filed in regards to the dispute
21 between James and the trustees?

22 **A. No. My recollection is there was a**
23 **settlement.**

24 Q. If you look at this June 17, 2003
25 letter, the top of the second paragraph, written

1 by Tom, says, "In reference to this letter, let us
2 first emphasize that we do not represent Ed and
3 Gina in this matter. We represent the Trust." I
4 was under the belief that you only represented Ed
5 and Gina and not the Trust. Is there is mistake
6 in this letter, or --

7 **A. No. I believe what he is saying is**
8 **that we don't represent them individually. We**
9 **represent them as Trustees of the Trust.**

10 Q. Okay. So your take on, We represent
11 the Trust, is that you don't actually represent
12 the Trust; you represent the Trustees?

13 MR. SLABY: I'm going to object to
14 form.

15 THE WITNESS: The next sentence
16 says, "We must take direction from the Trustees of
17 the Trust."

18 BY MR. BRODZIK:

19 Q. Is it still your belief that you did
20 not represent the Trust, though, as it states in
21 this letter?

22 **A. I think that's a legal conclusion**
23 **one way or the other. Do you represent the Trust?**
24 **Do you represent the Trustees? I think it's hard**
25 **to differentiate that.**

1 Q. And you're a lawyer; correct?

2 **A. Yes.**

3 Q. And you have been practicing for 45
4 years in trust and estates?

5 **A. Yes.**

6 Q. So based off of your extensive
7 knowledge on trust and estate law, is it your
8 belief that you represent the Trust, or that you
9 represent the children as Trustees of the Trust?

10 **A. Not the children as Trustees of the**
11 **Trust. I represent the Trustees acting as such,**
12 **not the children, because they are not children in**
13 **that fiduciary capacity. They are Trustees.**

14 Q. Please describe what you mean by --
15 well, can you repeat the question? I'm confused
16 by that answer.

17 MR. JACOBSON: May I interject here?

18 If you file a lawsuit on behalf of a trust, if you
19 file it in the name of "Trust So-and-So" sues, it
20 will be dismissed because a trust is not an entity
21 that has the power to sue. So it has to be filed
22 "So-and-So, Trustee of Such-and-Such Trust." Same
23 with deeds. A trustee's deeds written by the
24 trustee, saying, "On behalf of Such-and-Such
25 Trust, I convey this property to you."

<p style="text-align: right;">Page 42</p> <p>1 If you have a deed that is just in</p> <p>2 the name of the trust and not in the name of the</p> <p>3 trustee, it would be in effect of the conveyed</p> <p>4 interest. So yes, the trust exists. The trust</p> <p>5 acts only through its trustees. But the</p> <p>6 representation is all through trustees. The</p> <p>7 trustees are the persons that run the trust, that</p> <p>8 do everything. The trust itself doesn't have a</p> <p>9 separate legal existence, aside from -- for</p> <p>10 purposes of conveyance lawsuits and so on, other</p> <p>11 than by actions taken by the trustees.</p> <p>12 Would you agree with that, Joann?</p> <p>13 Is that a correct description?</p> <p>14 THE WITNESS: Absolutely. Well</p> <p>15 said.</p> <p>16 BY MR. BRODZIK:</p> <p>17 Q. So is it your understanding that a</p> <p>18 trust does not have the right to sue?</p> <p>19 A. Yes.</p> <p>20 Q. Is it your understanding that</p> <p>21 trustees can only bring suit for the -- I guess</p> <p>22 for the interest of the trust on behalf of the</p> <p>23 trust?</p> <p>24 A. I defer to the litigator.</p> <p>25 MR. JACOBSON: Just as this case is</p>	<p style="text-align: right;">Page 44</p> <p>1 she was -- she was deposed in that litigation, and</p> <p>2 that was in 1993.</p> <p>3 THE WITNESS: 1993.</p> <p>4 MR. JACOBSON: So I was involved in</p> <p>5 her deposition in 1993, in connection with the</p> <p>6 malpractice action against her then partner. She</p> <p>7 was just a kid.</p> <p>8 THE WITNESS: I had suppressed it.</p> <p>9 BY MR. BRODZIK:</p> <p>10 Q. How many times do you think you have</p> <p>11 been deposed over the years?</p> <p>12 A. Three, counting today.</p> <p>13 Q. The letter goes on to state that,</p> <p>14 "We consider our first and foremost obligation is</p> <p>15 to fulfill the dictates of the Trust and maintain</p> <p>16 a fiduciary responsibility of the Trustees in</p> <p>17 administrating the Trust."</p> <p>18 Have you had instances in the past</p> <p>19 where the trustees have not acted in the best</p> <p>20 interest of the Trust, in your extensive history</p> <p>21 of trust and estate planning?</p> <p>22 MR. SLABY: Object to the form.</p> <p>23 MR. JACOBSON: I object to the form.</p> <p>24 Are you talking about with represent to this</p> <p>25 Trust? Are you talking about all Trusts?</p>
<p style="text-align: right;">Page 43</p> <p>1 brought by Ed and Eugenia and as Trustees of the</p> <p>2 Wiegand Trust, that's the proper method. That's</p> <p>3 how we sue. We didn't make it up. The English</p> <p>4 guys made it up 500 years ago, so we're stuck with</p> <p>5 it.</p> <p>6 MR. BRODZIK: Well, that's your</p> <p>7 understanding of how it should be properly</p> <p>8 captioned.</p> <p>9 MR. JACOBSON: That is true.</p> <p>10 BY MR. BRODZIK:</p> <p>11 Q. I'm asking for your understanding</p> <p>12 of --</p> <p>13 A. My understanding is the same. But</p> <p>14 since I don't do litigation, I don't get in to</p> <p>15 that. But what Joe says is correct.</p> <p>16 Q. Do you know Mr. Jacobson outside of</p> <p>17 this suit?</p> <p>18 A. No. I wrote him a letter last week</p> <p>19 on another matter.</p> <p>20 Q. How long have you known Mr.</p> <p>21 Jacobson?</p> <p>22 A. About a week.</p> <p>23 MR. JACOBSON: She may not recall,</p> <p>24 but we actually met a number of years ago, because</p> <p>25 we represented David Lacks in that litigation that</p>	<p style="text-align: right;">Page 45</p> <p>1 MR. BRODZIK: Generally speaking.</p> <p>2 THE WITNESS: I recall one instance</p> <p>3 of that in the past.</p> <p>4 BY MR. BRODZIK:</p> <p>5 Q. When you come across an instance</p> <p>6 where a trustee is not acting in the best interest</p> <p>7 of the Trust, how do you rectify an issue like</p> <p>8 that?</p> <p>9 A. I believe I had to withdraw as</p> <p>10 counsel.</p> <p>11 Q. Withdraw as counsel from --</p> <p>12 A. The representation of.</p> <p>13 Q. Of the Trust?</p> <p>14 A. Of the Trustee of the Trust, yes.</p> <p>15 Q. Withdraw as representation of the</p> <p>16 Trust or the Trustee?</p> <p>17 A. Both.</p> <p>18 Q. Both?</p> <p>19 A. Well, when you withdraw from the</p> <p>20 representation of the Trust, you are withdrawing</p> <p>21 from the representation of the Trustees.</p> <p>22 Q. In your extensive knowledge on the</p> <p>23 subject of trust and estate planning, do you</p> <p>24 believe there could be a conflict of interest</p> <p>25 between representing a Trust and the Trustees of a</p>

12 (Pages 42 to 45)

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1 Trust?

2 **A. In the situation that you just**
3 **outlined, where the Trustee is acting not in the**
4 **best interest of the Trust, that is correct. That**
5 **is creating a conflict between that Trustee and**
6 **the Trust and its fiduciary duty to the Trust. So**
7 **there can be a conflict of interest in that sense.**

8 Q. And if there was a conflict of
9 interest, do you have a duty to withdraw then?

10 **A. I believe so.**

11 **(Whereupon, Exhibit J is marked for**
12 **identification.)**

13 BY MR. BRODZIK:

14 Q. This is a July 22, 2003, letter to
15 MaryLee from you, requesting that the life
16 insurance policy be changed from the Wiegand
17 Family, LLC, to the Herbert C. Wiegand Revocable
18 Trust, Statement of Irrevocability, a Change of
19 Beneficiary Request.

20 And you further state that, In
21 addition, the policy cannot be located, and we
22 request a new policy.

23 I'll let you review that. Can you
24 let me know if you drafted that letter?

25 **A. Yes.**

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1 Q. On this Transfer of Ownership under,
2 Address of the new owner of the Herbert C. Wiegand
3 Revocable Trust, no address is included. Do you
4 agree with me?

5 **A. I can see that there is no address**
6 **listed.**

7 Q. Do you know why no address was
8 listed for the Herbert C. Wiegand Revocable Trust?

9 **A. No.**

10 Q. And you never directed that an
11 address should be included there?

12 MR. JACOBSON: Object to the form.
13 You mean in connection with this letter, or do you
14 mean at any point in time?

15 BY MR. BRODZIK:

16 Q. I'm talking about with the transfer
17 of ownership.

18 **A. Can you repeat the question, please?**

19 Q. Yes. Did you believe that an
20 address should have been included on this Transfer
21 of Ownership for the Trust?

22 **A. I don't recall.**

23 Q. Do you know if you -- or can you
24 recall if you reviewed this document prior to you
25 mailing it to New York Life?

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1 Q. If you look at, I believe -- what
2 the is the Bates on the page I just gave you?

3 **A. 98.**

4 Q. If you look at 100, there is a
5 Transfer of Ownership/Designation. Did you
6 Prepare This Transfer of Ownership/Designation?

7 **A. I do not believe so.**

8 Q. Do you know who did prepare the
9 Transfer of Ownership/Designation?

10 **A. No.**

11 Q. And you recall that when the policy
12 was first taken out, the address on the policy was
13 9 Huntleigh Woods in St. Louis, Missouri?

14 MR. SLABY: Object to form.

15 THE WITNESS: I don't recall.

16 BY MR. BRODZIK:

17 Q. Well, we can go back and look at the
18 policy, but --

19 **A. I don't recall independently.**

20 Q. But based off of your review of the
21 policy --

22 **A. Yes.**

23 Q. -- the address on the policy was 9
24 Huntleigh Woods?

25 **A. (Nodding.)**

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1 **A. I don't recall.**

2 Q. Is it in your normal course of
3 business to review Transfer of Ownership documents
4 before you personally mail them out to insurance
5 companies?

6 **A. It would be, yes, in my normal**
7 **course.**

8 Q. In that letter, you state that you
9 do not have a copy the policy, is that correct?

10 **A. That is what the letter says, yes.**

11 Q. And based on the exhibits that we've
12 gone through previously, there was, in fact, a
13 copy of the policy located in your legal file, is
14 that correct?

15 MR. SLABY: I'm going to object to
16 form as far as if we're talking about the same
17 policy, or --

18 MR. JACOBSON: I'm going to object
19 to form, as we don't have any evidence of when
20 that policy entered her file relative to the date
21 of this letter.

22 BY MR. BRODZIK:

23 Q. Okay. But you do believe that at
24 some point, that file made its way -- or that
25 policy made its way into your legal file; correct?

13 (Pages 46 to 49)

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1 **A. Yes.**
2 **(Whereupon, Exhibit K is marked for**
3 **identification.)**
4 BY MR. BRODZIK:
5 Q. I'm going to hand you an October
6 2003 letter from Danna McKittrick, Barbara Blee
7 Maille --
8 **A. Maille.**
9 Q. -- to you in regards to the dispute
10 between James Wiegand and Ed and Gina, including a
11 proposed petition for breach of fiduciary duty,
12 and for the removal of Ed and Gina as Trustees for
13 the Trust.
14 Do you recall receiving this letter
15 from Ms. Maille?
16 **A. I don't recall.**
17 Q. Right. But it was included in your
18 legal file; correct?
19 **A. I assume that's where you got it.**
20 Q. Yes. Do you recall when James
21 settled with Ed and Gina?
22 **A. No.**
23 Q. Is it your understanding that James
24 did at some point end up settling with Ed and
25 Gina?

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1 **A. That is my recollection, not strong.**
2 Q. Do you recall the terms of that
3 settlement?
4 **A. No.**
5 Q. Do you recall if, during the
6 negotiation of that settlement, if it was
7 discussed that Ed and Gina should be removed as
8 Trustees of the Trust?
9 **A. I don't remember any of those**
10 **details at that point.**
11 Q. I believe you stated earlier that
12 Tom Blumenthal was representing the Trust in
13 regards to this lawsuit. However, this
14 correspondence is directed to you.
15 Did you also have some part in
16 defending the Trust in relation to this lawsuit or
17 potential lawsuit?
18 **A. Tom and I worked together on this,**
19 **so I would have turned this over to him. I knew**
20 **Barbara well as well, and she knew I was working**
21 **with the Trust. So for some reason, she addressed**
22 **this letter me.**
23 Q. You don't recall when that
24 settlement occurred between --
25 **A. No.**

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1 Q. The petition that is attached to
2 this letter names Edward Wiegand, individually and
3 in his capacity as a trustee, Mark Wiegand,
4 individually, and Eugenia, individually and in her
5 capacity as a trustee.
6 Would it be in your -- with your
7 knowledge of trust and estate law, would it be a
8 conflict of interest to represent an individual
9 being sued for breach of fiduciary duty both
10 individually and as a trustee?
11 MR. SLABY: Object to form.
12 BY MR. BRODZIK:
13 Q. You can answer if you understand the
14 question.
15 **A. Could you ask the question again,**
16 **please?**
17 MR. BRODZIK: Can you repeat back
18 the question, please?
19 (Whereupon, the pending question is
20 read by the court reporter.)
21 THE WITNESS: It could get to be a
22 conflict of interest if it got far enough.
23 BY MR. BRODZIK:
24 Q. Do you recall if this settlement
25 that was entered into between James and Edward and

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1 Eugenia was entered into individually and on
2 behalf of the Trust?
3 **A. I don't remember.**
4 Q. General speaking, would it be your
5 advice to have a settlement like that -- strike
6 that.
7 (Whereupon, Exhibit L is marked for
8 identification.)
9 BY MR. BRODZIK:
10 Q. Exhibit L is a fax from Vance
11 Financial to you, confirming that the New York
12 Life policy, the ownership was changed to the
13 Revocable Trust on August 19, 2003. Do you recall
14 that?
15 **A. Do I read it as a fax?**
16 Q. Yes. Do you recall that the
17 ownership of the policy was, in fact, changed to
18 the Trust?
19 **A. Yes, it was, eventually.**
20 Q. And you said say "eventually." Is
21 it your testimony that on November 18, 2003, the
22 ownership had not been changed yet to the Trust?
23 **A. No.**
24 MR. JACOBSON: Because of the double
25 negatives, I don't know whether your answer was

14 (Pages 50 to 53)

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1 that, "No, it was changed," or "No, it wasn't
2 changed."

3 MR. SLABY: If you know.

4 THE WITNESS: I don't know. I
5 assume from this.

6 BY MR. BRODZIK:

7 Q. That it was?

8 **A. Yes.**

9 **(Whereupon, Exhibit M is marked for
10 identification.)**

11 BY MR. BRODZIK:

12 Q. On M, it is a July 12, 2004, letter
13 to Heidi Vance from you. "We are enclosing the
14 completed Service Form - Change Request for the
15 life insurance policy owned by the Herbert C.
16 Wiegand Revocable Trust, insuring the life of Jean
17 C. Wiegand. As indicated in the document, the
18 original policy has been lost, and we are
19 requesting the issuance of a new policy, showing
20 the current owner of the Herbert C. Wiegand
21 Irrevocable Trust."

22 And if you'd look to the next
23 page -- well, first off, 502, do you recall having
24 written that letter?

25 **A. I don't recall.**

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1 Do you have any recollection as to
2 why the top half of the Service Form - Change
3 Request is written with pen handwriting, and the
4 second half of the form was typed?

5 **A. I don't recall the -- because this
6 is a form that came from the agent, the top part,
7 probably written by the agent and sent to us.**

8 Q. And the letter prior that was in
9 accordance with this document says, "We are
10 enclosing the completed Service Form."

11 If you believe that the top half was
12 done by the agent, is it your belief then that the
13 remainder of the document was completed by you?

14 **A. I don't know for sure. I can't
15 recall.**

16 Q. But it's your understanding that
17 either you or Edward or Eugenia would have
18 completed this Service Form, the Change Request?

19 MR. SLABY: Object to form.

20 THE WITNESS: I can't recall.

21 BY MR. BRODZIK:

22 Q. Right.

23 **A. 2002 or 2003 or whatever, or 2004.**

24 Q. And the purpose of this Service Form
25 was to provide an address for the Herbert C.

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1 Q. On the following page, it is the
2 Service Form - Change Request that was attached to
3 this letter in your legal file. Listed is --
4 well, do you recall if you filled out this Service
5 Form - Change Request?

6 **A. I don't recall.**

7 Q. The prior Change Request was all
8 written in hand. This one is written, it looks
9 like, with a typewriter or some sort of computer
10 program.

11 Is it the standard course in your
12 business that when you are filling out forms such
13 as this, that your office type out Change Requests
14 rather than write them out by hand?

15 MR. SLABY: Object to form.

16 THE WITNESS: I don't know that we
17 have a standard practice. I think it varies.

18 BY MR. BRODZIK:

19 Q. Do you believe or recall if you or
20 your office was the individual that typed out the
21 instructions on the Service Form - Change Request
22 on this document?

23 **A. I don't recall.**

24 Q. The instructions -- well, strike
25 that.

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1 Wiegand Revocable Trust; correct?

2 **A. It appears to be the case.**

3 Q. And the address listed as the owner
4 or the address for the Herbert C. Wiegand
5 Revocable Trust is 165 North Meramec Avenue?

6 MR. JACOBSON: Meramec.

7 BY MR. BRODZIK:

8 Q. The document states Meramec,
9 M-E-R-A-M-C-E, Avenue, Sixth Floor, St. Louis,
10 Missouri 63105. Can you tell me where 165 North
11 Meramec Avenue is?

12 **A. I would assume that that is right
13 here, but with a small typo.**

14 Q. So you do admit that there is a typo
15 in this address?

16 **A. Yes.**

17 Q. And under phone number listed as the
18 home phone number of the Herbert C. Wiegand
19 Revocable Trust, the number 314-727-2266 is
20 listed. Is that your office number?

21 **A. Yes.**

22 Q. Do you know why that is listed as
23 the home address of the Trust?

24 **A. I don't recall why that decision was
25 made.**

15 (Pages 54 to 57)

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1 Q. Just so you are aware or you now are
2 aware that the address that you instructed, or
3 that this document instructs New York Life to
4 provide notices, address, policy information is an
5 incorrect or a nonexistent address; correct?

6 MR. SLABY: Object to form.

7 THE WITNESS: There is a typo in the
8 address that may or may not have any effect in
9 terms of delivering information.

10 BY MR. BRODZIK:

11 Q. Do you recall if you ever made an
12 attempt to correct the typographical error of this
13 address?

14 A. I don't recall.

15 Q. And if you look at Page 504, the
16 document appears to have been reviewed and signed
17 by Edward Wiegand and Eugenia Sprich. Do you
18 agree?

19 A. It appears to be.

20 (Whereupon, Exhibit N is marked for
21 identification.)

22 BY MR. BRODZIK:

23 Q. Following that, I'm going to hand
24 you a copy of the policy that was included in your
25 legal file. And if you would look at -- getting

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1 Q. And in the pages that you sent over,
2 it lists a guarantee no-lapse date of 6-13, 2005,
3 is that correct?

4 A. I don't --

5 Q. You can review the pages of the
6 document.

7 MR. SLABY: Are you asking for what
8 it states on the form?

9 MR. BRODZIK: Yes. It states the
10 date of the guaranteed no-lapse date on the
11 policy.

12 THE WITNESS: Yes.

13 BY MR. BRODZIK:

14 Q. What is your understanding of what
15 the term "Guaranteed no-lapse date" of a policy
16 means?

17 MR. SLABY: Object to form.

18 THE WITNESS: Beyond the words
19 itself, I can't give you an explanation.

20 BY MR. BRODZIK:

21 Q. Do you know what the "No-lapse" date
22 means, generally speaking?

23 A. I can tell you what the words might
24 mean in English, but not what it means to the
25 insurance companies.

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1 to Page 140, it appears that it was sent in a fax
2 on February 4, 2004. Take a look, and you can
3 confirm that for me.

4 A. It appears to be a copy of the
5 policy.

6 Q. So your understanding, based off the
7 policy and the faxed date of same, at some point
8 around February 4, 2004, your firm would have a
9 complete copy of the policy at issue in this
10 lawsuit?

11 A. Yes.

12 (Whereupon, Exhibit O is marked for
13 identification.)

14 BY MR. BRODZIK:

15 Q. Exhibit O is a letter sent, or a fax
16 sent from you to Heidi Vance on February 17, 2004,
17 enclosing pages of the replacement policy, which
18 you admit you had received, and asking for
19 confirmation that the change of name had taken
20 place, is that correct?

21 A. Yes, it appears be.

22 Q. So you reviewed the policy in depth
23 enough to look and see who the named beneficiary
24 of the policy was; correct?

25 A. Yes.

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1 Q. What do those words mean in English?

2 A. That it is not going to lapse in
3 that period of time or until that date?

4 Q. Or until that date?

5 A. Yes.

6 Q. And that date is only a year and
7 change out from the date that you sent that
8 letter; correct?

9 A. It appears.

10 Q. So would it be in your normal course
11 of business, if you see a policy that has the
12 potential to lapse in a year, that you would
13 inform your clients of that fact?

14 MR. SLABY: Object to form. No
15 foundation. Calls for a conclusion.

16 THE WITNESS: Could you ask that
17 question again?

18 MR. BRODZIK: Could you read it
19 back, please?

20 (Whereupon, the pending question is
21 read by the court reporter.)

22 MR. SLABY: Same objections.

23 THE WITNESS: Yes, generally.

24 BY MR. BRODZIK:

25 Q. Do you recall if you did that in

16 (Pages 58 to 61)

1 this instance?

2 **A. I believe that is covered under**
3 **confidentiality.**

4 MR. BRODZIK: Can you certify that
5 question, please?

6 (Whereupon, the pending question is
7 certified at the request of Mr. Brodzik.)

8 BY MR. BRODZIK:

9 Q. In the pages that you sent back to
10 the insurance agent, is it true that it states
11 that the policy requires a monthly premium of
12 \$7,818.50?

13 **A. I'm sorry, I don't have that in**
14 **front of me.**

15 MR. JACOBSON: I was looking it
16 over --

17 MR. SLABY: The document speaks for
18 itself. If you're just asking her to confirm what
19 it says on it, that's fine.

20 THE WITNESS: It says somewhere in
21 here.

22 MR. SLABY: Where is it? Don't
23 assume anything.

24 THE WITNESS: I assume it says what
25 you --

1 MR. SLABY: What are you asking,
2 Jim? I'm sorry.

3 BY MR. BRODZIK:

4 Q. Well, you can look through the
5 dates. What is the required monthly premium as
6 stated on the policy pages that you forwarded to
7 Vance Financial Group?

8 MR. SLABY: Calls for a conclusion.
9 Lack of foundation.

10 THE WITNESS: Yes, it says premium
11 levels \$7,000 and some change.

12 BY MR. BRODZIK:

13 Q. Do you ever recall discussing that
14 fact with Edward and Eugenia?

15 **A. I believe that is covered by**
16 **confidentiality.**

17 MR. BRODZIK: Certify that question
18 as well, please.

19 (Whereupon, the pending question is
20 certified at the request of Mr. Brodzik.)

21 BY MR. BRODZIK:

22 Q. Do you recall if the Trust -- strike
23 that. If payments are being made for, say, life
24 insurance or fees on a brokerage account, whatever
25 it may be, are those fees being paid by the Trust

1 itself or by the Trustees of the Trust?

2 **A. They are generally being paid by the**
3 **Trustees out of the Trust, so you can make your**
4 **conclusion as to whether it is being paid by the**
5 **Trustees or the Trust, I think is a fine point.**

6 Q. Typically speaking, what would be
7 the -- say if it's a check, what would be the
8 entity as listed on the check? Would it be the
9 Trust itself or the Trustees?

10 **A. Sometimes it might be one, sometimes**
11 **the other. Under Missouri law, it is permitted to**
12 **list the Trust on the account. But typically,**
13 **only the Trustees can sign on behalf of the Trust.**

14 Q. From your own experience, practicing
15 in this area of the law for 45 years, if you
16 receive a payment for fees, and the check states
17 solely from the Trust, or solely from the
18 Trustees, could that cause any sort of potential
19 conflict of interest in your eyes?

20 **A. No.**

21 **MR. SLABY: Object to form.**
22 **(Whereupon, Exhibit P is marked for**
23 **identification.)**

24 BY MR. BRODZIK:

25 Q. And then following your request for

1 a verification of the policy beneficiary
2 designation has been changed, on June 24, 2004, a
3 fax came to you from Clinton Vance, stating, Here
4 comes the policy ownership and beneficiary
5 information regarding policy 62791665.

6 And there is a letter from New York
7 Life, stating that the owner is the Herbert C.
8 Wiegand Revocable Trust.

9 Have you seen that document before,
10 or do you recall receiving that document?

11 **A. I don't recall seeing that document.**

12 Q. But you don't deny that it was in
13 your legal; file?

14 **A. Correct.**

15 Q. Is there a reason why you don't
16 think you would have reviewed this document, or
17 you just don't remember reviewing it?

18 MR. SLABY: Object to form.

19 THE WITNESS: I didn't say I didn't
20 -- I don't recall. It's been too long to say that
21 I can look at this document and say I remember
22 seeing it.

23 BY MR. BRODZIK:

24 Q. If you look at the document, which
25 is dated June 23, 2004, it states the owner was

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1 Herbert C. Wiegand Revocable Trust; correct?
 2 **A. Yes.**
 3 Q. Okay. And at the top, it states the
 4 address of the Herbert C. Wiegand Revocable Trust
 5 as 9 Huntleigh Woods, St. Louis, Missouri. Do you
 6 agree with that?
 7 **A. Yes, it does.**
 8 Q. And that is seven months after this
 9 Service Form - Change Request was sent, directing
 10 that the address of the Trust be changed to 165
 11 North Meramce Avenue, is that correct?
 12 **A. It is some period of time. I**
 13 **haven't measured the month.**
 14 Q. After receiving this letter on June
 15 23, 2004, stating that -- or providing an address
 16 of 9 Huntleigh Woods, what action did you take to
 17 attempt and rectify the current discrepancy and
 18 address between 9 Huntleigh Woods and 165 North
 19 Meramce?
 20 **A. I don't recall.**
 21 Q. Do you recall if you ever attempted
 22 to contact New York Life again and request an
 23 update of address?
 24 **A. I don't recall.**
 25 Q. If I were to tell you that I did not

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1 see any documents in your file memorializing an
 2 attempt to reach out to New York Life, would you
 3 have any reason to disagree with that?
 4 MR. SLABY: Object to form.
 5 THE WITNESS: I can't disagree with
 6 what you saw one way or the other.
 7 BY MR. BRODZIK:
 8 Q. And after this letter on June 23,
 9 2004, the file essentially is devoid of any new
 10 material in regards to this policy. Do you recall
 11 if you took any more -- strike that.
 12 Do you recall performing any
 13 additional legal work for Edward and Eugenia
 14 and/or the Trust after June 23, 2004?
 15 **A. In the overall Trust administration,**
 16 **yes.**
 17 Q. In regards specifically to this
 18 policy?
 19 MR. SLABY: Object to form.
 20 THE WITNESS: I can't recall that.
 21 (Whereupon, Exhibit Q is marked for
 22 identification.)
 23 BY MR. BRODZIK:
 24 Q. On 12-8, 2004, there was an itemized
 25 list of legal expenses included in your file, and

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1 that itemized list shows that the PCB firm had to
 2 date, or as of the date, 12-8, 2004, had billed
 3 the Wiegands or the Trust \$103,000 in legal fees.
 4 Do you see that?
 5 **A. Yes.**
 6 Q. Was that the last bill that was sent
 7 from PCB to -- well, strike that.
 8 Was any legal work performed on
 9 behalf of Edward and Eugenia Sprich or the
 10 Wiegands following December 2004?
 11 **A. Yes.**
 12 Q. Do you recall if any invoices or
 13 bills went out to the children or the Trust after
 14 December 2004?
 15 MR. SLABY: Object to form.
 16 THE WITNESS: There would have been
 17 bills going to the Trust.
 18 BY MR. BRODZIK:
 19 Q. Do you have any knowledge or
 20 understanding as to why no documentation was
 21 included in the legal file post 2004?
 22 MR. SLABY: Object to form.
 23 THE WITNESS: I said that I reviewed
 24 the file briefly, but it was my recollection that
 25 we were still corresponding. And I provided

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1 documents corresponding with the IRS subsequent to
 2 that date, so there were documents in the file
 3 subsequent to 2004.
 4 BY MR. BRODZIK:
 5 Q. Do you recall when the last document
 6 in the file date-wise would have been?
 7 **A. No. I do not believe -- I know we**
 8 **had not settled with the IRS before 2004.**
 9 Q. You don't recall when you settled
 10 with the IRS?
 11 **A. 2006 comes to mind, but I could be**
 12 **off by a year.**
 13 Q. Following 2006 or 2007, or whenever
 14 you think you may have settled with the IRS, did
 15 you perform any other legal work on behalf of
 16 Edward or Eugenia or the Trust?
 17 **A. Not on behalf of the Trust, some**
 18 **other matters for Edward and Eugenia.**
 19 Q. That are not in any way related to
 20 the Trust?
 21 **A. Right.**
 22 Q. Do you recall the last time you
 23 performed legal work for Edward and Eugenia in
 24 regards to the Trust? Would it have been wrapping
 25 things up with the IRS in 2005 or 2006?

18 (Pages 66 to 69)

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1 MR. SLABY: Or 2007.
 2 BY MR. BRODZIK:
 3 Q. Or 2007?
 4 **A. Or 2007. Yes, somewhere in there.**
 5 **I don't recall.**
 6 Q. Is the Trust still open?
 7 **A. That is a question that I am not**
 8 **sure I can answer. I don't have enough**
 9 **information.**
 10 Q. And you never received a yearly
 11 notice from New York Life in regards to yearly
 12 cash value of the policy?
 13 **A. No.**
 14 Q. Did you ever reach out to New York
 15 Life as a representative of the Trustees or the
 16 Trust to request another yearly policy cash value
 17 notification?
 18 **A. No.**
 19 Q. Did you ever reach out to the
 20 individuals living at 9 Huntleigh Woods to request
 21 any notices?
 22 MR. SLABY: Object to form.
 23 THE WITNESS: No.
 24 BY MR. BRODZIK:
 25 Q. Did you ever inform --

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1 **A. Let me change -- I don't know. I**
 2 **can't remember.**
 3 Q. If you would have, would that have
 4 been noted in your legal file?
 5 MR. SLABY: Object to form.
 6 THE WITNESS: I don't know.
 7 BY MR. BRODZIK:
 8 Q. Did you inform Edward and Eugenia
 9 that the last correspondence you received from New
 10 York Life in regards to the change in ownership
 11 listed 9 Huntleigh Woods as the address for the
 12 Trust?
 13 **A. I believe that would fall under**
 14 **confidentiality in terms of what I informed them.**
 15 MR. BRODZIK: Certify that question,
 16 please.
 17 (Whereupon, the pending question is
 18 certified at the request of Mr. Brodzik.)
 19 BY MR. BRODZIK:
 20 Q. Did you ever make another attempt to
 21 correct 165 North Meramce Avenue as your intended
 22 address for the Trust?
 23 **A. I don't recall.**
 24 Q. Do you know when this insurance
 25 policy lapsed?

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1 MR. SLABY: Object to form.
 2 THE WITNESS: No.
 3 BY MR. BRODZIK:
 4 Q. Are you aware of when the Wiegand
 5 children reached out to New York Life in regards
 6 to their request for information about the policy?
 7 **A. Would you rephrase that, please? Or**
 8 **I'm not sure I understand the question.**
 9 Q. Are you aware that at some point in
 10 time, the Wiegand children, Edward or Eugenia, or
 11 both, reached out to New York Life for an update
 12 as to the current standing of the policy?
 13 **A. I'm aware that they did reach out,**
 14 **yes.**
 15 Q. Do you know when they reached out?
 16 **A. Not precisely.**
 17 Q. And you never reached out?
 18 **A. I did not.**
 19 Q. Did you review --
 20 **A. There was additional correspondence**
 21 **with New York Life, where we provided beneficiary**
 22 **information to New York Life from our office for**
 23 **-- after the termination of the Trust interest in**
 24 **the policy.**
 25 **Basically, we provided beneficiary**

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1 **designations for each of the children of the**
 2 **Trust, or the decedent, so that upon payment of**
 3 **the policy they would know where to make the**
 4 **payment. And those addresses and the detailed**
 5 **information was provided to New York Life. I**
 6 **can't tell you exactly when, but it would have**
 7 **been somewhere in that --**
 8 Q. Do you think that that may have
 9 actually be included in some of the documents?
 10 **A. I thought it was.**
 11 Q. It was, right. So the documentation
 12 would have been provided to New York Life prior to
 13 this April --
 14 **A. No, I believe it was afterwards.**
 15 Q. So you believe it was afterwards?
 16 **A. Yes. I don't recall exactly when it**
 17 **was, but we provided beneficiary designation so**
 18 **that New York Life had all the names and addresses**
 19 **of all the beneficiaries for the eventual payout**
 20 **of the policy.**
 21 Q. Looking at Exhibit J, dated July 22,
 22 2003, is this the beneficiary designation material
 23 that you believe you are referencing?
 24 **A. Yes.**
 25 Q. So that was in July 2003, that that

19 (Pages 70 to 73)

<p style="text-align: right;">Page 74</p> <p>1 information was sent to New York Life; correct?</p> <p>2 A. Yes. And that had all the names and</p> <p>3 addresses of all the parties, including the</p> <p>4 Trustees.</p> <p>5 Q. When you provided this change of</p> <p>6 beneficiary request, is that your understanding or</p> <p>7 belief that at that point that somehow removes</p> <p>8 your duty to contact New York Life in regards to</p> <p>9 the upkeep or the current status of the policy?</p> <p>10 MR. SLABY: Object to form. There</p> <p>11 has been no established legal duty or anything</p> <p>12 like that. So lack of foundation. Calls for a</p> <p>13 conclusion.</p> <p>14 BY MR. BRODZIK:</p> <p>15 Q. As the representative of Edward and</p> <p>16 Eugenia as Trustees, did you have -- as an</p> <p>17 attorney, did you have a legal duty to make sure</p> <p>18 that their policy was in effect, and that they had</p> <p>19 notice of the terms and conditions of the policy?</p> <p>20 MR. SLABY: Object to form. Calls</p> <p>21 for a legal conclusion. Lack of foundation.</p> <p>22 THE WITNESS: My discussions with</p> <p>23 them are covered by confidentiality.</p> <p>24 BY MR. BRODZIK:</p> <p>25 Q. And I'm not asking for any</p>	<p style="text-align: right;">Page 76</p> <p>1 counsel for the Trustees of the Trust has a duty</p> <p>2 to inform the Trustees of the pertinent</p> <p>3 information in life insurance policies that are</p> <p>4 included in the Trust?</p> <p>5 MR. SLABY: Same objection as</p> <p>6 previously made. There has been no established</p> <p>7 duty. Lack of foundation, calls for a legal</p> <p>8 conclusion, vague and ambiguous.</p> <p>9 THE WITNESS: I believe that, based</p> <p>10 upon the objections raised by my attorney, that it</p> <p>11 is not appropriate to answer that question.</p> <p>12 MR. BRODZIK: Why don't you certify</p> <p>13 that question as well.</p> <p>14 (Whereupon, the pending question is</p> <p>15 certified at the request of Mr. Brodzik.)</p> <p>16 BY MR. BRODZIK:</p> <p>17 Q. Have you ever spoken with Mark</p> <p>18 Wiegand?</p> <p>19 A. I don't recall.</p> <p>20 Q. Have you spoken to Teal Wiegand?</p> <p>21 A. Who?</p> <p>22 Q. Teal Wiegand?</p> <p>23 A. I don't recall.</p> <p>24 Q. Had you ever spoken to Christina</p> <p>25 Wiegand?</p>
<p style="text-align: right;">Page 75</p> <p>1 discussions that you've had with them. I'm asking</p> <p>2 you as an attorney of 45 years, who handles</p> <p>3 estates and trusts, do you have a legal duty to</p> <p>4 keep your clients informed as to the pertinent</p> <p>5 provisions of life insurance policies?</p> <p>6 MR. SLABY: Object to form. Lack of</p> <p>7 foundation, vague and ambiguous, calls for a legal</p> <p>8 conclusion.</p> <p>9 THE WITNESS: Does that mean I don't</p> <p>10 answer?</p> <p>11 MR. SLABY: If you have an answer,</p> <p>12 you can have answer. I'm not telling you not to.</p> <p>13 Do you understand the question?</p> <p>14 THE WITNESS: I believe that in any</p> <p>15 given case, that may be governed by discussions</p> <p>16 between the attorney and the client. And in this</p> <p>17 case, I believe that is covered by</p> <p>18 confidentiality.</p> <p>19 BY MR. BRODZIK:</p> <p>20 Q. I'm not asking you specifically</p> <p>21 about this case.</p> <p>22 A. I understand that.</p> <p>23 Q. I'm asking you, generally speaking,</p> <p>24 with your 45 years of experience, whether or not</p> <p>25 the representative for the Trustees of the Trust,</p>	<p style="text-align: right;">Page 77</p> <p>1 A. I don't recall.</p> <p>2 Q. Patrick Wiegand?</p> <p>3 A. I don't recall.</p> <p>4 Q. Have you ever spoken with Stephanie</p> <p>5 Wiegand?</p> <p>6 A. I do not recall.</p> <p>7 Q. Have you ever spoken to Miriam</p> <p>8 Wiegand?</p> <p>9 A. I don't recall.</p> <p>10 Q. Have you ever spoken to Herbert C.</p> <p>11 Wiegand, Junior?</p> <p>12 A. Yes.</p> <p>13 Q. And you didn't represent Herbert C.</p> <p>14 Wiegand, Junior, did you?</p> <p>15 A. As a beneficiary of the Trust, I</p> <p>16 believe. I believe he was a beneficiary of the</p> <p>17 Trust. As a beneficiary of the Trust, I may have</p> <p>18 talked to him in connection with representation of</p> <p>19 the Trustees of the Trust in carrying out the</p> <p>20 Trust administration.</p> <p>21 Q. What did you speak with Herbert C.</p> <p>22 Wiegand about?</p> <p>23 A. Is that covered by confidentiality?</p> <p>24 MR. SLABY: Probably not.</p> <p>25 THE WITNESS: My recollection is</p>

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1 that it had to do with a vehicle that he was
 2 receiving from the Trust.
 3 BY MR. BRODZIK:
 4 Q. Did you discuss the life insurance
 5 policy on Jean Cameron Wiegand with him?
 6 A. No.
 7 Q. Have you ever spoken with Susan B.
 8 Lennard?
 9 A. Yes.
 10 Q. What did you speak with Susan B.
 11 Leonard about?
 12 A. I think assets passing from the
 13 Trust, she may have asked me about. I don't
 14 recall specifically.
 15 Q. Do you recall ever speaking to Susan
 16 B. Leonard about the life insurance policy at
 17 issue in this case?
 18 A. No.
 19 Q. Did you ever speak with Antoinette
 20 Hines?
 21 A. I don't recall.
 22 Q. Have you ever spoken with Emmet
 23 Hines?
 24 A. I don't recall.
 25 Q. Douglas Hines?

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1 A. I don't recall.
 2 Q. Jackie Hines?
 3 A. No.
 4 MR. BRODZIK: I believe those are
 5 all the questions that I have at this time.
 6 EXAMINATION
 7 BY MR. JACOBSON:
 8 Q. Hello, Ms. Dyroff. We meet again
 9 after 30 years.
 10 First, I'll direct your attention to
 11 Deposition Exhibit J, which was a letter from you,
 12 dated July 22, 2003, to the Vance Financial Group.
 13 And if I understand correctly, the
 14 Vance Financial Group was the New York Life agents
 15 with whom the Trust was dealing?
 16 A. Yes.
 17 Q. And in your July 22, 2003 letter,
 18 you state, quote, In addition, as we discussed,
 19 the current policy cannot be located, and we
 20 request a new policy, naming the Herbert C.
 21 Wiegand Revocable Trust as owner, be issued and
 22 delivered to our office, closed quote.
 23 Did I read that correctly?
 24 A. Yes.
 25 Q. And would you have written that if,

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1 in fact, you knew and saw a policy -- insurance
 2 policy in your file?
 3 A. It seems unlikely.
 4 Q. Yes. And it seems, from the
 5 correspondence, you didn't get a copy of the
 6 policy right away when you wrote this July 22,
 7 2003 letter, is that correct?
 8 A. I don't recall.
 9 Q. It's not a letter, July 13 of 2004,
 10 which is Deposition Exhibit M.
 11 A. I'm sorry, which was what?
 12 Q. Exhibit M. And it's from you to
 13 Heidi Vance at Vance Financial Group, January 12,
 14 2004, which was six months later. And it states,
 15 quote, As indicated in the document, the original
 16 policy has been lost, and we are requesting the
 17 issuance of a new policy, showing current owner as
 18 the Herbert C. Wiegand Irrevocable Trust.
 19 Did I read that correctly in the
 20 first paragraph of your letter?
 21 A. Yes.
 22 Q. All right. So from your request in
 23 July of 2003, to your second request in July of
 24 2004, did you not receive a copy of the insurance?
 25 A. I don't recall. Based upon the

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1 letters, it appears not.
 2 Q. At that time, you would have been
 3 aware of whether you received something in the
 4 last six months or so?
 5 MR. BRODZIK: Objection. Calls for
 6 speculation.
 7 THE WITNESS: Yes.
 8 BY MR. JACOBSON:
 9 Q. And if you had received such a
 10 thing, would you have asked for another copy,
 11 saying it was still lost?
 12 MR. BRODZIK: Objection. Calls for
 13 speculation.
 14 THE WITNESS: No.
 15 BY MR. JACOBSON:
 16 Q. Now, the address placed on this
 17 Service Form - Change Request, the second page of
 18 Exhibit M, has the misspelling. It says 165 North
 19 Meramec, but Meramec is spelled M-E-R-A-M-C-E,
 20 instead of M-E-R-A-M-E-C; correct?
 21 A. I see that there is a difference. I
 22 didn't quite follow your letters, yes.
 23 Q. The last two letters are switched?
 24 A. Right.
 25 Q. And it says, the Sixth Floor. We're

21 (Pages 78 to 81)

1 currently on the first floor.
 2 **A. At that point, we were using the**
 3 **sixth floor. But now mail comes in on the first**
 4 **floor.**
 5 Q. Do you still receive mail sometimes
 6 addressed to the sixth floor?
 7 **A. Sometimes, yes.**
 8 Q. Do you still receive mail that is
 9 sometimes addressed to a misspelled street name?
 10 **A. Absolutely.**
 11 Q. So with this January 12, 2004
 12 letter, you are asking that the policy be noted as
 13 owned by the Herbert C. Wiegand Irrevocable Trust;
 14 right?
 15 **A. Yes.**
 16 Q. That didn't happen right away, did
 17 it? They didn't change the ownership right away,
 18 did they?
 19 **A. I can't remember that.**
 20 MR. BRODZIK: Objection. Vague.
 21 BY MR. JACOBSON:
 22 Q. I'm going to direct your attention
 23 next to Deposition Exhibit O, which is a facsimile
 24 from you to Heidi Vance, February 17 of 2004, in
 25 which you attach a couple of pages that have been

1 issued for a change in policy.
 2 And as we looked at it previously,
 3 on the third page of this exhibit, it shows the
 4 name of the owner as Herbert C. Wiegand, is that
 5 correct?
 6 **A. Somewhere in here.**
 7 Q. About a third of the way down?
 8 **A. Yes.**
 9 Q. So it shows -- this document that
 10 was generated by New York Life, supposedly showing
 11 the changes in the policy, has the owner's name
 12 wrong; correct?
 13 **A. Correct.**
 14 Q. So on February 17th of 2004, you
 15 wrote to their agent to, again, ask them to issue
 16 it in a correct name, is that correct?
 17 **A. Yes.**
 18 Q. And finally, we have here as part of
 19 Exhibit P, a New York Life letter, dated June 23,
 20 2004, addressed to the policyholder, which is here
 21 listed as Herbert C. Wiegand Revocable Trust, but
 22 at the address of 9 Huntleigh Woods; correct?
 23 **A. Correct.**
 24 Q. So that would be the wrong address,
 25 based upon the information that you provided

1 previously?
 2 **A. Yes.**
 3 Q. So would it be fair to say that in
 4 the course of these year and a half to two years
 5 of correspondence, it took that long to get a
 6 change of policy from New York Life, and even in
 7 the end, they still had the address wrong?
 8 **A. Yes.**
 9 Q. If you -- for some of your clients,
 10 do you receive notices, mail, and so on addressed
 11 to you at your law office for the benefit of your
 12 clients?
 13 **A. Yes.**
 14 Q. What is your practice when you
 15 receive such correspondence?
 16 **A. We send it on immediately to the**
 17 **client.**
 18 Q. And if you received the annual
 19 policy statements and notices from New York Life
 20 here, what would you have done with them?
 21 **A. Sent them on to the client.**
 22 Q. But you didn't have the opportunity
 23 to do that?
 24 **A. That's right.**
 25 MR. JACOBSON: I have no further

1 questions. I would like copies of these exhibits.
 2 EXAMINATION
 3 BY MR. BRODZIK:
 4 Q. Just one quick follow-up.
 5 In regards to -- I think it is
 6 Exhibit P, the June 23, 2004 letter, you just
 7 stated that the address on the Trust was
 8 incorrect. Is that your testimony?
 9 **A. The address listed by New York Life?**
 10 Q. Yes.
 11 **A. It appears to be incorrect.**
 12 Q. Following this letter, what
 13 affirmative step did you take to see that that
 14 address should be changed to an address that
 15 suited your needs and your clients?
 16 **A. I'm sorry, I don't recall.**
 17 Q. You don't recall if you ever did, or
 18 you didn't do anything?
 19 **A. I don't recall the steps I would**
 20 **have taken.**
 21 Q. And typically, if you would have
 22 sent out a letter, just as all these other letters
 23 were included in your file, that would have been
 24 reflected in your file?
 25 **A. Typically.**

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1 MR. BRODZIK: All right.
 2 MR. JACOBSON: That's the end of my
 3 questions.
 4 As your lawyer will tell you, you
 5 have the right to read, review, correct the
 6 transcript if you wish.
 7 MR. SLABY: Yes. Read and sign,
 8 please.
 9 ---
 10 (Signature reserved.)
 11 ---
 12 (Whereupon, at 2:05 p.m.,
 13 proceedings are concluded.)
 14 ---
 15
 16
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1 UNITED STATES DISTRICT COURT
 2 EASTERN DISTRICT OF MISSOURI
 3 EASTERN DIVISION
 4 EDWARD WIEGAND and EUGENIA)
 5 SPRICH, TRUSTEES OF THE)
 6 HERBERT C. WIEGAND REVOCABLE)
 7 TRUST, individually and on)
 8 behalf of all other similarly)
 9 situated,)
 10 Plaintiff,)No. 4:22 CV 188 RWS
 11 vs.)
 12)
 13 NEW YORK LIFE INSURANCE &)
 14 ANNUITY CORPORATION, et al.,)
 15 Defendants.)
 16
 17 I, JOANN DYROFF, hereby acknowledge that
 18 I have read the foregoing transcript of the
 19 testimony given by me at my deposition on Friday,
 20 February 24th, 2023, and that said transcript
 21 constitutes a true and correct record of the
 22 testimony given by me at said deposition except as
 23 I have so indicated on the errata sheets provided
 24 herein.
 25

 JOANN DYROFF
 No corrections (Please initial) _____
 Number of errata sheets submitted _____ (pgs.)
 SUBSCRIBED AND SWORN to
 Before me this _____ day
 Of _____, 2023.

 NOTARY PUBLIC

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1 C E R T I F I C A T E
 2
 3 I, Mary M. Rocco, being a
 4 Certified Court Reporter and Registered
 5 Professional Reporter, do hereby certify that the
 6 foregoing oral testimony of JOANN DYROFF was
 7 taken stenographically by me on Friday, February
 8 24th, 2023, after the said witness was duly sworn
 9 or affirmed prior to the commencement of her
 10 testimony; and that this deposition transcript is
 11 a true and correct transcript of the same, fully
 12 transcribed under my direction, to the best of my
 13 ability and skill.
 14 I further certify that I am not a
 15 relative, employee or attorney of any of the
 16 parties in this action; that I am not a relative
 17 or employee of any attorney interested in the
 18 event of this action.
 19
 20
 21
 22 _____
 MARY M. ROCCO, RPR, CCR
 Certified Court Reporter
 #MO CCR NO. 1064
 23
 24
 25

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